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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,652	04/02/2004	Matthew K. Parker		9667

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EXAMINER

BOCHNA, DAVID

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,652

Applicant(s)

PARKER, MATTHEW K.

Examiner

David E. Bochna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-17 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12-17 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Mollick et al.

In regard to claim 12, Mollick et al. discloses (fig. 2) A shield assembly for wall penetration of flexible tubing, comprising:

an elongated sleeve comprised of a tube or channel having a first side 112, a second side 114 and a first open end 25 opposed to a second open end 20 (knockouts in surface 20 are the second opening) whereby flexible tubing may be installed into the first open end, pass through the tube or channel, and exit the second open end;

said elongated sleeve being of predetermined length sufficient to penetrate an exterior frame wall through any exterior sheathing and building siding;

said elongated sleeve being of predetermined inside dimensions to accommodate one or more flexible tubes;

an attachment plate 134 of sufficient strength to resist deformation due to manually applied pressure;

said attachment plate having one or more attachment holes 132 for installation of mounting hardware F2;

said attachment plate 134 being affixed to one of the first or second sides of the elongated sleeve such that the one or more attachment holes are oriented to permit installation of attachment hardware into a building-framing stud "5"; and

the geometric angle (front surface of hole 132) between the attachment plate and the elongated tube is such that, when the shield assembly is mounted to a building-framing stud, flexible tubing may be installed into the shield assembly without kinking.

In regard to claim 13, wherein geometric angle between the attachment angle and the elongated tube is between twenty (20) degrees and seventy five (75) degrees.

In regard to claim 14, wherein the elongated sleeve is comprised of durable material selected from the group comprising at least one of metal, polyvinyl chloride (PVC) or plastic.

In regard to claim 15, Mollick et al. discloses a shield assembly for wall penetration of flexible tubing, comprising:

an elongated sleeve comprised of a tube or channel having a top side 112, a bottom side 114 and a first open end (large open end) opposed to a second open end (knockouts in surface 120) whereby flexible tubing may be installed into the first open end, pass through said tube or channel, and exit out the second open end;

said sleeve being of predetermined length sufficient to penetrate an exterior frame wall through any exterior sheathing and building siding;

said sleeve being of predetermined inside dimensions to accommodate one or more flexible tubes;

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an attachment angle 150A of sufficient strength to resist deformation due to manually applied pressure;

said attachment angle 134A affixed to across the vertical midsection of the bottom side of the elongated tube or channel;

said attachment angle having one or more attachment holes for installation of mounting hardware; and

said attachment angle affixed to the elongated sleeve at a geometric angle whereby after said shield assembly is mounted to a stud wall, flexible tubing installed in the shield assembly can be installed without kinking.

In regard to claim 16, wherein the attachment angle 134A is affixed to the elongated sleeve at a geometric angle between twenty and seventy five degrees.

In regard to claim 17, wherein the elongated sleeve is comprised of durable material selected from the group comprising at least one of metal, polyvinyl chloride (PVC) or plastic.

In regard to claim 21, Mollick et al. discloses a shield assembly for wall penetration of flexible tubing, comprising:

an elongated sleeve comprised of a tube or channel having a first side, a second side and a first open end opposed to a second open end whereby flexible tubing may be installed into the first open end, pass through said tube or channel, and exit out the second open end;

said sleeve being of predetermined length sufficient to penetrate an exterior frame wall through any exterior sheathing and building siding;

said sleeve being of predetermined inside dimensions to accommodate one or more flexible tubes;

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an attachment angle of sufficient strength to resist deformation due to manually applied pressure;

said attachment angle having one or more attachment holes for installation of mounting hardware;

said attachment angle 134 being affixed to one of the first or second sides of the elongated sleeve such that the one or more attachment holes are oriented to permit installation of attachment hardware into building exterior sheathing; and

the geometric angle between the attachment angle and the elongated tube is such that, when the shield assembly is mounted to the building exterior sheathing, flexible tubing may be installed through the shield assembly without kinking.

In regard to claim 22, wherein the geometric angle between the attachment angle and the elongated tube is between twenty (20) and seventy five (75) degrees.

In regard to claim 23, wherein the elongated sleeve is comprised of durable material selected from the group comprising at least one of metal, polyvinyl chloride (PVC) or plastic.

Allowable Subject Matter

3. Claims 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments with respect to claims 12-17 and 21-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

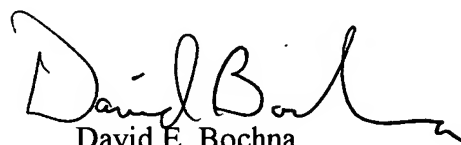
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Bochna whose telephone number is (571) 272-7078. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "David Bochna", with a stylized flourish at the end.

David E. Bochna
Primary Examiner
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